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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3785

13 **YERVAND JANAZYAN**
1135 E. Wilson Avenue, #6
Glendale, CA 91206

A C C U S A T I O N

14 Pharmacy Technician License
No. TCH 36309

15
16 Respondent.

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about September 12, 2001, the Board of Pharmacy (Board) issued Pharmacy
22 Technician License No. TCH 36309 to YERVAND JANAZYAN (Respondent). The Pharmacy
23 Technician License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on May 31, 2011, unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides in pertinent part, that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 4060 states, in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to section 3640.7, or furnished pursuant to a drug disorder issued by a certified nurse-midwife pursuant to section 2746.51, a nurse practitioner pursuant to section 2836.1, or a physician assistant pursuant to section 3502.1, or a naturopathic doctor pursuant to section 3640.5, or a pharmacist pursuant to either subparagraph (d) of paragraph (4) of, or clause (iv) of subparagraph (A) or paragraph (5) of, subdivision (a) of section 4052. This section shall not

1 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
2 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
3 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
4 labeled with the name and address of the supplier or producer.”

5 7. Section 4300 provides, in pertinent part, that every license issued by the Board is
6 subject to discipline, including suspension or revocation.

7 8. Section 4301 states, in pertinent part:

8 "The Board shall take action against any holder of a license who is guilty of unprofessional
9 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

10 Unprofessional conduct shall include, but is not limited to, any of the following:

11

12 "(j) The violation of any of the statutes of this state, or any other state, or of the United
13 States regulating controlled substances and dangerous drugs.

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15 "(l) The conviction of a crime substantially related to the qualifications, functions, and
16 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
17 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
18 substances or of a violation of the statutes of this state regulating controlled substances or
19 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
20 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
21 The board may inquire into the circumstances surrounding the commission of the crime, in order
22 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
23 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
24 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
25 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
26 of this provision. The board may take action when the time for appeal has elapsed, or the
27 judgment of conviction has been affirmed on appeal or when an order granting probation is made
28 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
3 indictment.

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5 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
6 violation of or conspiring to violate any provision or term of this chapter or of the applicable
7 federal and state laws and regulations governing pharmacy, including regulations established by
8 the Board or by any other state or federal regulatory agency.”

9 9. Health and Safety Code Section 11170 provides:

10 “No person shall prescribe, administer, or furnish a controlled substance for himself.”

11 10. Health and Safety Code Section 11171 provides that no person shall prescribe,
12 administer, or furnish a controlled substance, except under the conditions and in the manner set
13 forth in the Uniform Controlled Substance Act (setting forth requirements for prescription and
14 furnishing of narcotics).

15 11. Health and Safety Code Section 11350, subdivision (a) makes it a crime in this
16 state to possess any controlled substance, unless upon the written prescription of a physician or
17 other authorized prescriber.

18 REGULATORY PROVISIONS

19 12. California Code of Regulations, title 16, section 1770 states, in pertinent part:
20 "For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to
21 Division 1.5 (commencing with Section 475), a crime or act shall be considered substantially
22 related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree
23 it evidences present or potential unfitness of a licensee or registrant to perform the functions
24 authorized by his license or registration in a manner consistent with the public health, safety, or
25 welfare."

26 COST RECOVERY

27 13. Section 125.3 provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **DEFINITION OF TERMS**

4 14. "Cocaine," is a Schedule II controlled substance as defined in Health and Safety Code
5 section 11055, subdivision (b)(1) and is categorized as a dangerous drug pursuant to section 4022.

6 15. "Oxycodone," is a schedule II controlled substance pursuant to Health and Safety
7 Code section 11055, subdivision (b)(1) and is categorized as a dangerous drug pursuant to section
8 4022.

9 16. "Vicodin," is a Schedule II controlled substance pursuant to Health and Safety Code
10 section 11056, subdivision (e) and is categorized as a dangerous drug pursuant to section 4022.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Conviction of a Substantially Related Crime)**

13 17. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
14 490, in conjunction with California Code of Regulations, title 16, section 1170, in that
15 Respondent has been convicted of a crime substantially related to the qualifications, functions, or
16 duties of a pharmacy technician as follows:

17 **POSSESSION OF COCAINE - 2008**

18 a. On or about May 15, 2008, when Respondent passed through the security check-point
19 at the entrance to the County courthouse in Van Nuys, CA - a security wand was activated,
20 indicating Respondent had metal in his left pocket. When asked what was in his pocket,
21 Respondent stated, "nothing." When asked again, Respondent stated, "nothing," then ran through
22 the check-point area, and threw the contents of his pocket at a nearby planter. Officers searched
23 the planter, and located a crumpled gum wrapper lined with plastic containing a white powdery
24 substance resembling cocaine and a small plastic straw, also coated with a white powdery
25 substance. Respondent was arrested and subsequently charged with possession of cocaine.

26 b. On or about September 25, 2008, Respondent entered a plea of guilty in the criminal
27 proceeding entitled *The People of the State of California v. Yervand Janazyan* (Super. Ct. Los
28

1 Angeles County, 2008, No. LA059074) of violating Health and Safety Code section 11350,
2 subdivision (a) [possession of a controlled substance].

3 c. Pursuant to a plea agreement, proceedings were then suspended and judgment in the
4 matter deferred pending Respondent's completion of a diversion program. On or about March 25,
5 2010, the case was dismissed and proceedings terminated pursuant to Penal Code section 1000.3.

6 **MULTIPLE PUBLIC NUISANCE CONVICTIONS - 2006**

7 d. On or about December 21, 2006, after pleading nolo contendere, Respondent was
8 convicted in the criminal proceeding entitled *The People of the State of California v. Yervand*
9 *Janazyan* (Super. Ct. Los Angeles County, 2006, No. 6AV09361) of the following misdemeanor
10 violations of the City of Lancaster Municipal Code as follows:

- 11 (1) Lancaster Municipal Code section 8.30.060 [public nuisance - lack of required,
12 landscaping];
- 13 (2) Lancaster Municipal Code section 8.28.010, subdivision (I) [public nuisance - junk,
14 trash or debris];
- 15 (3) Lancaster Municipal Code section 8.28.010, subdivision (H) (2) [public nuisance –
16 attractive nuisance];
- 17 (4) Lancaster Municipal Code section 8.28.010, subdivision (J) [public nuisance - visible
18 trash containers];
- 19 (5) Lancaster Municipal Code section 8.30.010A, subdivision (12) [public nuisance -
20 attractive nuisance/pool with inadequate barrier];
- 21 (6) Lancaster Municipal Code section 8.30.010A, subdivision (12) [public nuisance -
22 attractive nuisance/clouded/green pool];
- 23 (7) Lancaster Municipal Code section 15.28.070A [technical code - noncompliant pool
24 barrier].

25 The Court placed Respondent on 3 years probation, with terms and conditions.

26 e. The circumstances surrounding the conviction are that on or about August 2, 2006
27 through on or about October 30, 2006, Respondent violated the Lancaster Municipal Code,
28 presented a civil nuisance and posed a threat to the public health, safety, or welfare.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Illegal Possession of a Controlled Substance)**

3 18. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
4 (o), for violating section 4060 and Health and Safety Code section 11350, subdivision (a), and/or
5 11170 and/or 11171 for illegal possession of a controlled substance as follows:

6 a. **Possession of Cocaine**

7 On or about May 15, 2008, Respondent was found to be in possession of cocaine at
8 the time he passed through the security check-point at the entrance of a courthouse in Van Nuys,
9 CA. Respondent subsequently pled guilty of violating Health and Safety Code section 11350,
10 subdivision (a) [possession of a controlled substance], as described more fully at paragraph 17(a),
11 (b) and (c) above.

12 b. **Possession of Cocaine and Oxycodone**

13 (1) On or about October 2, 2007, Respondent was observed by Los Angeles Police
14 Department officers sitting in a car illegally parked in an alley. Officers approached the
15 vehicle, and asked Respondent if there was anything in the vehicle that they should know
16 about. Respondent stated that he had a knife in the door. During subsequent search of
17 Respondent and his vehicle, officers noticed white powder residue resembling cocaine on
18 the driver's seat, and recovered three clear plastic baggies containing a white powder
19 resembling cocaine, eleven (11) oxycodone pills, and one (1) vicodin pill. Respondent
20 was subsequently arrested for illegal possession of a controlled substance.

21 (2) On or about October 3, 2007, Respondent was formally charged with two
22 counts of violating Health and Safety Code section 11350, subdivision (a) [possession of a
23 controlled substance] in the criminal case entitled *The People of the State of California v.*
24 *Yervand Janazyan* (Super. Ct. Los Angeles County, 2008, No. LA056988); however, the
25 charges were dismissed on or about February 19, 2008.

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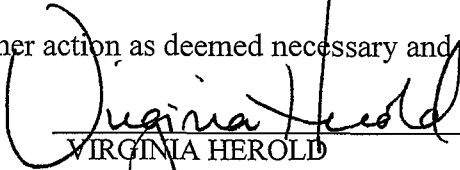
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Pharmacy Technician License No. TCH 36309, issued to Respondent YERVAND JANAZYAN;
2. Ordering Respondent YERVAND JANAZYAN to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/14/11


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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